

TANZANIA / JUDGMENT

19700930 TZHC Dar es salaam2

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30 September 1970

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12' qp~~~ criminal Form No. 33 (Approved by the High Court Judgment or Order on Appeal (s. 320) under Section 352 of the Criminal Procedure Code). Summary rejection (S. 317) IN THE HIGH COURT OF TANZANIA AT DAR ES SALAAM APPELLATE JURISDICTION Eu 3fC Caism No OF 19.. 2P . Original Criminal Case No of 1970 of the District Court of..... District at anga .

- before.L.R. Esq., Resident Magistrate'itret Magistrate. iL. Appellant (Original Accused) versus THE REPUBLIC..... Respondent (Original Prosecutor) cHARGE,: giving false information .Contrary to section c/s 122 of the Penal Code Libel contrary to section c/s 187 of the Penal Code. JUDGMENT/O.WR MKttiE, J. The appellant was convicted of giving false information and of libel. He was sentenced to a fine of hs.500/- oh six months in default on the first count, and to nine months on the second count. His Appeal to this Court is against both conviction and sentence. Evidence was adduced that the appellant, formerly the officer in charge of the Special Constabulary in Tanga region,'ote letters to various people, including His Jxcellency the President of the United Republic and the Cbainiiian of the Permanent Commission of Enquiry, 0 P Dsm 10224/12-65/50m/4uy
• . /2 7 -:2:- alleging that the Regional Police Commander, Mr. Isinika, was guilty of nepotism, that he treated Special Constables unfairly, that he transferred police officers unnecessarily, and finally, that his use of Government motor vehicles was irregular. The appellant wassmissed by a letter dated the 17th of May, 1969, signed by a Mr. Kihoyo, O.C.D. 0 informing him that he was being dismissed from the Special Constabulary, with immediate effect, because on the previous day he 4 not punctually attend a meeting of Special Constables. It is evident that it was this letter which made the appellant write the various ietter, there being no evidence that he was also the author of a letter dated 10th of February, 1969, addressed to the Chairman, Permanent Commission of Enquiry, some months before his ademissal. On the first count there was evidence of both the prosecution and defence witnesses that Special Constables were being djsmtssed rather abruptly. P.W. 2 9 Ted Miowe, a Special Ccnstabile Sergeant, told the trial court that he read the letter the appellant wrote to His Excellency the President, and was satisfied that some of the allegations made therein were true. This came from a prosecution witness who was not treated as hostile. There is, therefore, no way of knowing what jnformation was false in that letter. The court was not told and it did not ask which allegations were true and which were not. Said Abdallah,

another prosecution witness, said that he was dismissed from the Constabulary because he was sick, According to P.W.7. Machiyo Abdallah s three Special Constables were fired because of some mis- understanding over telephone calls and Jbdalab Oman, one of the three persons, explained that on the day he was dismissed he was in fact not on duty: He picked up the telephone and tried to connect the Regional Police Commander with someone he wanted to speak to but the latter was absent. When the Regional Police Commander came to the police station he fired Omari on the spot: 'He came to me and ordered me to stop working and put off all my clothes and I was was chased like a dog.' The Regional Police Commander may have powers to dismiss Special Constables without giving reasons, but when things reach a court of law in circumstances as the present ones, the reasons for the dismissals may have to be looked at so as to establish whether or not the allegations said to have been made were false. The Regional Police Commander admitted that police officers were being shunted around rather often but this was because there had been some trouble in Lushoto district and police officers from there had to be pulled out and this involved transfers of other policemen. It was not established in court, though, that the appellant knew of this reason, so it was not13

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Prepared on 14 October 2026 · Esheria